

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 16899 of 2007(J)

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CMC.50/2006 of J.M.F.C.,VADAKARA

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PETITIONERs:

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1. YAKKOOB, S/O.KUNHIPOKKAN,  
KALIYADAN HOUSE, KALADI AMSOM,  
MANGATTOOR DESOM, PONNANI TALUK.
2. KORAN, S/O.THAMI,  
VELLIYATH PARAMBIL HOUSE, KALADI AMSOM,  
MANGATTOOR DESOM, PONNANI TALUK.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:

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1. DISTRICT COLLECTOR,  
MALAPPURAM.
2. STATE OF KERALA, REP. BY CHIEF  
SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. S.U. NAZER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**R.BASANT, J**

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**W.P(C).No.16899 of 2007**  
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Dated this the 4th day of June, 2007

**JUDGMENT**

Petitioners were sureties for an accused in a criminal prosecution. That accused was not available. Proceedings under Section 446 Cr.P.C were initiated against the accused and the petitioners-the sureties. The petitioners allegedly did not know of the proceedings at all. They were blissfully ignorant of all the steps taken against them under Section 446 Cr.P.C. Now the situation has changed. Action has been taken to execute the order passed. The petitioners have come to this Court with a prayer that powers under Section 482 Cr.P.C may be invoked to enable them to prefer a proper appeal under Section 449 Cr.P.C along with an application to condone delay. Breathing time may be given and in the meantime, the order now passed under Section 446 Cr.P.C may not be permitted to be executed. This in short is the crux of the prayer. It is for the petitioner to file a proper appeal and seek condonation of delay in filing such appeal under Section 449 Cr.P.C. I do not find any compelling reasons to issue any directions under Section 482 Cr.P.C. However, I am finally persuaded by the request of the learned counsel for the petitioners for a breathing time to enable them to prefer proper appeal under Section 449 Cr.P.C and seek and obtain interim

orders from such appellate court. As condition/prize for the same, the learned counsel for the petitioners, in response to a query by this Court, offers to deposit a reasonable portion of the amount which the petitioners are obliged to pay as per the order under Section 446 Cr.P.C. Total amount payable is Rs.20,000/-, it is submitted.

2. I am satisfied that a lenient view can be taken. This Writ Petition is, in these circumstances, allowed. The attachment shall continue, but sale of the property, if not already done, shall not be undertaken for a period of 30 days from this date on condition that the petitioners deposit an amount of Rs.10,000/- (Rupees Ten thousand only) each before the authorities who are seeking to execute the said order.

**(R.BASANT, JUDGE)**

rtr/-

